



## ILLINOIS COMMERCE COMMISSION

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August 24, 2001

Ms. Donna M. Caton  
Chief Clerk  
Illinois Commerce Commission  
527 East Capitol Avenue  
Springfield, IL 62701

**RE: Docket No. 00-0802**  
**Central Illinois Public Service Company**  
**(AmerenCIPS) and Union Electric**  
**Company (AmerenUE)**

Dear Ms. Caton:

Enclosed for filing on behalf of the Staff of the Illinois Commerce Commission is the Reply Brief of the Staff of the Illinois Commerce Commission.

Sincerely,

A handwritten signature in cursive script, appearing to read "Janis E. Von Qualen".

Janis E. Von Qualen  
Staff Attorney

JVQ/ja

Enclosures

cc: Mr. Larry M. Jones, Administrative Law Judge  
Service List

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STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION

Central Illinois Public Service Company	:	
(AmerenCIPS) and Union Electric	:	
Company (AmerenUE)	:	
	:	00-0802
Central Illinois Public Service Company	:	
and Union Electric company request	:	
approval of revisions to delivery services	:	
tariffs, and for approval of Delivery	:	
Services Implementation Plan for	:	
Residential Customers.	:	

**REPLY BRIEF OF THE STAFF OF  
THE ILLINOIS COMMERCE COMMISSION**

NOW COMES the Staff of the Illinois Commerce Commission (“Staff”), through its attorneys, and files its Reply Brief to the Initial Briefs Central Illinois Public Service Company (“AmerenCIPS”) and Union Electric Company (“AmerenUE”) (jointly referred to as “Ameren” or “Companies”), Illinois Industrial Energy Consumers (“IIEC”) and Mid-American Energy Company (“MEC”).

**I. REVENUE REQUIREMENTS**

**A. Contested Operating Revenues and Expenses**

**1. ARES Business Center**

Ameren has failed to demonstrate that the proposed pro forma adjustments for the three new proposed positions for the ARES Business Center (“ABC”) are known and measurable. Although this proceeding was initiated for the purpose of setting rates for delivery services, not base rates, 83 Ill. Adm. Code 285, which sets forth the standard filing requirements for utilities in filing for an increase in rates is persuasive authority

which the Commission may use in reviewing the filings and making a determination thereon. According to Part 285, a utility may propose pro forma adjustments "...where such changes occurred during the selected Historical or Current Test Year or are reasonably certain to occur subsequent to the selected Test Year within 12 months from the filing date of the tariffs and the amount of the changes are determinable." 83 Ill. Adm. Code 285.150(e). Part 285 goes on to describe proposed proforma adjustments as "known and measurable". In the instant docket, the costs for filling the proposed positions are not known and measurable.

At least two of the three positions will be not be filled until beyond 12 months from the filing date of the tariffs. The Company has alleged that it expects to fill the one position, the RES account executive, by the end of 2001. (Tr., 49) The Company stated that although the job description for that position has been developed, the description is subject to approval of the vice president of the Customer Service Division. (Id.) Thus, there is no evidence that two of the positions comply with the Part 285 requirements and it is not certain that the third position will be filled within twelve months of the December 15, 2000 filing.

The known and measurable criteria are not met by the inclusion of costs associated with these positions in a Company budget. While budgets are an integral part of filing a future test year, in an historic test year such as the one filed by Ameren in the current case, inclusion in a budget does not constitute sufficient evidence to meet known and measurable criteria. Had Ameren filed a **future** test year, pro forma adjustments based on the budget of that future period would have been considered; however, Ameren would also have had to secure the opinion of an independent Certified Public

Accountant (“CPA”) regarding Ameren’s adherence to “Guidelines for Systems for the Preparation of Financial Forecasts” published by the American Institute of Certified Public Accountants as required by 83 Ill. Adm. Code 285.150 for utilities that use a forecasted test year. Since Ameren filed an historic test year, the criteria related to future test year filing clearly do not apply.

The Ameren statement that due to certain “anticipated” volume increases resulting from residential customer choice these 3 positions are necessary (Staff Cross Exhibit 1, TEE 4.05), does not provide sufficient justification upon which to make the adjustments. As acknowledged by Ameren witness Hock during cross, the timing of these hiring events is subject to change. (Tr., 40) In fact the timing has changed during the course of this case from mid 2001 to by the end of 2001. (See Staff IB, pp. 17-18 and ICC Staff Ex. 1.0, p. 25)

Neither has Ameren provided sufficient evidence to justify the salary levels of these new employees. The salary levels for these 3 new employees have changed 3 times since the inception of the case. (Staff IB, p. 17) Such moving targets do not meet the known and measurable criteria.

Staff’s adjustments removing the expenses associated with these 3 new ABC positions should be accepted, as the pro forma adjustments are not known and measurable.

## **2. Employee Benefits Cost**

The Company erroneously states Staff’s basis for disallowing the expenses related to certain retirement and deferred compensation plans is a decision reached by the Commission 10 years ago. (Ameren IB, p. 13) In fact, these same plans have been

considered and disallowed more recently in CIPS Dockets 98-0545 and 99-0121. (ICC Staff Ex. 1.0, p. 14) The reasons these expenses were disallowed in CIPS Docket 91-0193 remain valid reasons for disallowing the expenses in the current case. The Company has failed to provide any new evidence to persuade Staff that the expenses, which have already been considered and disallowed three times, should now be allowed. (Staff IB, p. 18)

These plans are discriminatory. They only provide for benefits for a small number of highly paid employees who are also included under the pension plan that covers all employees. (ICC Staff Ex. 1.0, p. 14) Furthermore, these plans are not necessary to provide service to the ratepayers. (ICC Staff Ex. 11.0, p. 9) Therefore, Staff's adjustments to disallow the expenses related to these Employee Benefit Plans should be approved.

### **3. Incentive Compensation**

While the argument pertaining to Incentive Compensation Expense provided in Ameren Initial Brief, pages 14-17 has already been rebutted in Staff's Initial Brief on pages 10-16, some statements credited to Staff witness Ebrey require further discussion.

Ameren states "Ms. Ebrey maintained that the plan was based on financial goals only". This is a misstatement of Ms. Ebrey's testimony. Nowhere in Ms. Ebrey's testimony does she make such a statement. While the employees may meet all of their individual performance goals, it is possible that the Company as a whole may not meet its targeted financial goals. Unless the targeted overall earnings per share benchmark for the Company is reached, no funding of the plan will occur. If the Incentive

Compensation Plan (“Plan”) is not funded, no incentive payments can be made. Performance goals may be a component of the Plan, but the deciding factor on whether or not incentive compensation payments are made is the Company achieving its targeted earnings per share level. (Staff IB, pp. 12-13)

Further, Ameren agrees that the criteria used for measuring the level of incentive compensation has changed “from financial goals to a program with both performance goals tied to operating efficiency and financial goals”. Thus, it is not possible to determine a “normal” level of expense to be included in operating expenses based on **comparable** historical data. (Staff IB, p. 13-14)

MidAmerican Energy Company also addressed the issue of Incentive Compensation in its Initial Brief stating that Ms. Ebrey’s concerns with Ameren’s Plan were addressed by Ameren. (MidAmerican IB, p. 3) While Ameren did address Staff’s concerns, they did not dispel these concerns, as was discussed in staff rebuttal testimony (ICC Staff Ex. 11.0, pp. 3-8) and Staff’s Initial Brief. (Staff IB, pp. 10-16).

The Companies’ Operating Expenses should be adjusted to disallow expenses included in the Companies’ filings for the Plan. The Plan is dependent upon financial goals of the Company, which benefit shareholders and not ratepayers. (ICC Staff Ex. 1.0, p. 16.) The goals in the Plan may not be met and thus the Company would incur no cost; yet, ratepayers would still provide the same level of funding. (ICC Staff Ex. 1.0, p. 17.) The Plan is discretionary and may be discontinued at any time. (ICC Staff Ex. 1.0, p. 18.) There is no comparable historical data on which to determine if the test year level is reflective of a “normal” level. (ICC Staff Ex. 1.0, p. 19.) Finally, prior Commission precedent supports the disallowance of incentive compensation. (ICC Staff

Ex. 1.0, pp. 19-20.)

## **II. RATE DESIGN**

### **A. Zero-intercept Method of Cost Allocation and Classification**

In its Initial Brief, Ameren continued its support for the use of the zero-intercept method of preparing the Cost of Service Study (“COSS”) to develop delivery services rates in this docket. (Ameren IB, section VI) Ameren relied on the description of the zero-intercept method in the NARUC Electric Utility Cost Allocation Manual in an effort to show that the zero-intercept method is widely used and generally accepted by utility, regulatory and consulting personnel within the electric industry. Ameren did not offer any Commission Orders accepting the zero-intercept method, however, so Ameren’s claim that it is widely used and generally accepted does not apply at the Commission. Moreover, as Staff pointed out in testimony and in its Initial Brief, the Commission has rejected the zero-intercept method for many years, including Ameren’s previous delivery services Docket No. 99-0121. (Staff IB, pp. 21-23)

The zero-intercept method seeks to allocate a portion of costs for common-use distribution equipment according to the number of customers within the defined customer classes. The zero-intercept method attempts to accomplish that objective by “identify[ing] that portion of plant related to a hypothetical no-load or zero-intercept situation.” Staff’s COSS, approved by the Commission in the Order on Ameren delivery services Docket No. 99-0121, allocates the costs of common-use distribution equipment on the basis of demand. The Staff COSS recognizes that a distribution system is built and integrated to serve demand for electricity by many customers, rather than being built for a no-load situation, and charges for the use of common-use distribution



equipment based upon demand.

Ameren offers a simple example to demonstrate how Ameren believes the complexity of the zero-intercept method is justified. Ameren compares two groups of customers with a similar level of demand, one a residential area consisting of approximately 200 houses and the other a single commercial or industrial customer. Ameren explains how the residential area requires the installation of more transformers, secondary voltage lines and service lines compared to the single commercial or industrial customer. The additional service lines in Ameren's example do not provide support for the zero-intercept method over the Staff COSS because the Staff COSS allocates service lines as a customer cost. (ICC Staff Ex. 14.0, p. 11)

Staff's testimony offered another example where the length of the primary distribution line serving the single commercial or industrial customer is longer than the primary distribution line serving the residential area, thus resulting in additional costs. (Id., pp. 10-11) Additionally, the potential for continued build-out of the residential line for more residential or small commercial customers is more likely given more favorable local environmental factors. With continued build-out, under the zero-intercept method, residential and small commercial customers would be responsible for a greater percentage of the costs of primary distribution equipment solely as a result of more connections, even though the length of the primary distribution line would be unchanged.

While Ameren's example is food for hypothetical thought, it does not represent the only illustration of a distribution system layout. Ameren's support for the zero-intercept COSS again suffers from a failure to explain why the costs of common or shared distribution equipment that is demand-related should be allocated as a customer-related

cost. Given that the Commission rejected Ameren's proposed zero-intercept COSS in Docket No. 99-0121 consistent with Commission Orders in previous dockets over several years, and approved the Staff COSS in Docket No. 99-0121, the Commission should again reject Ameren's proposed zero-intercept COSS. The Staff COSS should be used in this docket to develop delivery services rates, as it was in the previous Ameren delivery services docket just two years ago.

## **B. Rider ISS**

In analyzing the Companies proposed Interim Supply Service charge for residential customers ("Rider ISS"), Staff identified a significant policy concern for the Commission's consideration. As discussed in testimony, under the Company proposal it is likely that some residential customers would not be able to withstand paying unexpectedly high market prices for energy, should they lose their supplier, particularly when the market price is high. This aspect of the Companies' proposed rider could serve as a significant obstacle for residential customers' participation in the competitive market.

In the interest of providing the Commission an option for dealing with this concern, Staff proposed that the charge for Interim Supply Service for residential customers consist of the applicable bundled rate, plus the 10% adder currently in the Ameren Companies' Rider ISS tariffs, as well as the \$5 administrative charge that is also currently in the tariffs.

On pages 4 through 7 of its Initial Brief, IIEC lists a "host of reasons" to support its opinion that the option proposed by Staff should be rejected. Staff responds to several of these points as follows:

First, despite IIEC's arguments to the contrary, Staff's recommendation will not result in a subsidy across customer classes. That is, in its next rate case the Company would likely request that any shortfall be picked up by other residential delivery service customers, thereby putting into play the averaging principle and not creating a subsidy to other customers that had not chosen an alternative supplier. On page 4, IIEC argues that the Staff position is premature. Staff disagrees. Staff has identified that under the Company's proposed Rider ISS, there is at least the potential that certain customers will be faced with unexpectedly high bills. Staff's proposal is responsive to this concern and provides an option to the Commission that would allow residential customers to participate in the competitive market. Companies, generally, have been allowed by the Commission to use fuel adjustments (FAC) to recover the cost of power under a bundled tariff, thus Staff would find it acceptable for the Company to recover high energy charges from ISS through a similar FAC-type add-on charge to residential delivery service customers. On page 6, IIEC charges that Staff's proposal would bring about "perverse incentives." Staff responds that it is clearly not the intent of the proposed option to make it convenient for suppliers to game the system for their own benefit. Rather, Staff is concerned with the welfare of customer's who participate in the unknown competitive market. To the extent that an opportunity for gaming exists, the Commission should weigh this against the interest of reducing the barriers to customer participation on the competition market.

In balancing the significant interests addressed above, Staff respectfully requests that the Commission give the Staff Rider ISS option all due consideration.

## **C. Rider SG**

### **1. Argument**

It is Staff opinion that its arguments regarding Rider SG, set forth in its initial brief (IIEC IB, pp. 30-46), adequately address the arguments presented in the Company's initial brief. (Ameren IB, pp. 23-30) Rather than repeat the entirety of those arguments here, Staff respectfully directs the reader to its initial brief regarding the arguments raised by the Company. Staff will, however, address Mr. Cooper's two customer SG example within the context of the arguments presented in both the Company's and the Staff's initial briefs.

### **2. The Two Customer Stylized Example**

Ameren's brief repeats the highly stylized example that Mr. Cooper used in his rebuttal testimony (Ameren Exhibit 16.0, p. 8) regarding two hypothetical customers on Ameren's system. (Ameren IB, p. 26) In Dr. Haas' Rebuttal Testimony, he argues that Mr. Cooper's example is not very illustrative of the potential benefits from Customer B's use of SG, and as such, it is not very illustrative of the potential benefits, or the lack thereof, in a more realistic setting. (ICC Staff Ex. 16.0, p. 25)

Dr. Haas provides a number of problems with Mr. Cooper's example as a useful illustration of SG customers and their effect on the system and costs:

"Mr. Cooper's example does not show that Customer B's use of SG reduces the wear on the transmission and distribution system, even though Customer B's use of SG cuts load demand in half. Mr. Cooper's example does not include stochastic (variable) demand where the fact that Customer B has freed up capacity on the distribution and transmission system results in any benefits to the remaining customers(s). Mr. Cooper's example does not show the potential of any additional customer demand from new customers (or increased demand from existing customers) that would benefit from the increased capacity on the transmission and distribution system created by Customer B's use of SG. The benefit

would take the form of the reduced need to add expensive new physical capacity to meet new load.” (ICC Staff Ex. 16.0, pp. 25-26)

Dr. Haas also points out that Mr. Cooper’s claims regarding Customer B’s cost responsibilities in the absence of Rider SG are erroneous. (Ameren Exhibit No. 16.0, p. 8 and Ameren IB, p. 26) Dr. Haas states, “...what Mr. Cooper fails to show is that unless Customer B disconnects its load completely from Ameren’s system, it will still pay the portion of these costs that are collected through...customer and meter charges.” (ICC Staff Ex. 16.0, p. 26) In fact, Customer B in Mr. Cooper’s example would only avoid the **variable** portion of its transmission and distribution costs if it installed SG units and then remained connected to Ameren’s grid in the **absence** of Rider SG. It is also important to note that Customer B would not avoid paying for any customer specific equipment used to serve it with power. (ICC Staff Ex. 16.0, p. 25) Dr. Haas argues that “overall, the example provided by Mr. Cooper is misleading and not really relevant to the issues at hand.” (ICC Staff Ex. 16.0, p. 26)

### **3. Conclusion and Recommendation**

Staff continues to recommend that Rider SG, as currently presented, be removed from consideration, as it would provide an uneconomic and distortionary price signal to customers considering SG in Ameren’s territory. It is also suggested that Ameren be required to encourage SG through special contracts or delivery service rates when considering distribution or transmission upgrades to the system. This recommendation would only require that both presentations of Rider SG be stricken from the proposed tariffs.

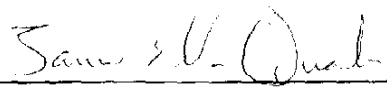
In no case should the Company be allowed to assess transmission charges on power generated by the customer’s own self-generated unit. This would affect all Rider

In no case should the Company be allowed to assess transmission charges on power generated by the customer's own self-generated unit. This would affect all Rider SG affected customer classes with respect to the calculation of transmission charges. This recommendation would only require that the language within Rider SG referring to the calculation of transmission charges based on the customer's metered SG usage be removed.

### **III. CONCLUSION**

For the foregoing reasons, the Staff of the Illinois Commerce Commission respectfully requests that the Commission order reflect Staff's recommendations.

Respectfully submitted,

  
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JANIS E. VON QUALEN  
JOHN J. REICHART  
Staff Attorneys

Counsel for the Staff of the  
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STATE OF ILLINOIS

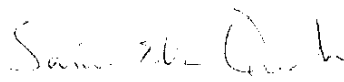
ILLINOIS COMMERCE COMMISSION

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NOTICE OF FILING

TO: Attached Service List

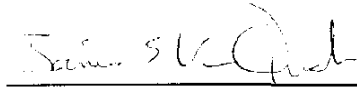
PLEASE TAKE NOTICE that on this 24th day of August, 2001, I have filed with the Chief Clerk of the Illinois Commerce Commission, the Reply Brief of the Staff of the Illinois Commerce Commission, copies of which are hereby served upon you.

  
\_\_\_\_\_  
JANIS E. VON QUALEN  
Staff Attorney

Counsel for the Staff of the Illinois Commerce  
Commission

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Notice of Filing, together with the Reply Brief of the Staff of the Illinois Commerce Commission, were served upon the parties on the attached service list by electronic mail on the 24th day of August, 2001.

A handwritten signature in cursive script, appearing to read "Janis E. Von Qualen", is written above a horizontal line.

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